

2.3.16 Patient's Right to Amend Health Record

(a) Policy

The California Correctional Health Care Services (CCHCS) shall provide guidance to patients regarding requests for changes, corrections, or amendments to documentation contained within their health records.

(b) Responsibility

(1) Statewide

(A) The Deputy Director, Dental Services; Deputy Director, Medical Services; Deputy Director, Nursing Services; and Deputy Director, Statewide Mental Health Program are responsible for the oversight, implementation, and evaluation of this policy.

(B) The Chief, Health Information Management (HIM), is responsible for the monitoring and evaluation of this policy and shall establish and maintain procedures to carry out the requirements herein.

(2) Regional

Regional Health Care leadership is responsible for oversight and implementation of this policy at the subset of institutions within an assigned region.

(3) Institutional

Health care leadership is responsible for the implementation, monitoring, and evaluation of this policy and shall establish and maintain local operating procedures to carry out the requirements herein.

(c) Procedure

(1) Request for Change, Correction, or Amendment

(A) A patient or patient's representative may request any portion of the patient's health record to be changed, corrected, or amended.

(B) The request for amendment must be in writing, utilizing the CDCR 7236, Request to Amend Health Records.

(C) The request for amendment must be submitted to HIM at the patient's institution. In the case of parolees, the request must be sent to Health Records Imaging Center.

1. Upon receipt of the request for amendment HIM staff shall review the request for the type of changes requested.
 - a. If the request is incomplete or does not clearly identify the record that the patient or patient's representative requests to be amended, the request shall be returned to be clarified.
 - b. If a request is returned to the submitter for clarification, HIM staff shall include a description of what information is needed to clarify the request.
2. The content of a complete request shall include:
 - a. What information is being requested to amend (i.e., encounter date, provider, etc.).
 - b. The reason for the request to amend.
 - c. Only one record amendment request per form.
 - d. No more than 250 words amending or to be added to the identified record.
3. HIM shall forward the CDCR 7236 to the appropriate institution discipline leadership (e.g., Chief Medical Executive, Chief Nurse Executive, Chief of Mental Health, Chief Psychiatrist, or Supervising Dentist), or designees, where the patient's record was created, for assignment to the author of the document. If the CDCR 7236 is received from a patient representative, the envelope containing the patient representative's address shall also be provided to the appropriate discipline.
 - a. If the author of the document is an unlicensed professional, working under the supervision of a licensed clinician, the licensed clinician shall review and respond to the amendment request.
 - b. In the event that the author of the document is unavailable, and will not be available within a reasonable timeframe to respond to this request, the appropriate institution discipline leadership, or designee shall review and respond to the amendment request.
 - c. In instances where the author of the document has relocated to another institution or within CCHCS Headquarters, the request shall be forwarded to the author by HIM to the appropriate location.

(D) HIM staff shall maintain a master log to record all patient requests for amended records.

(2) Decisions

(A) The author of the document, or designated reviewer as described in Section (c)(1)(C)3, shall respond to the request for amendment within 30 days using the CDCR 7236 with either of the following:

1. The amendment request is approved and the patient's health record has been amended.

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- a. A copy of the patient's amended health records shall be included with the response.
 2. The amendment request is denied in whole or in part.
 - a. The response shall be written in plain language and at a minimum must address the following:
 - 1) The reasons for the denial.
 - 2) A description of how the patient may submit a written statement of disagreement as described on the CDCR 7236.
 - 3) A description of how the patient may file a complaint with the Department or to the Secretary of the [U.S. Department of Health and Human Services \(HHS\)](#). The description must include the name or title and telephone number of the contact person for the complaint as described on the CDCR 7236.
 - b. In instances where the amendment is denied in part, the author of the document, or designated reviewer, shall also:
 - 1) Indicate which portion of the request was amended and which portion of the request was denied.
 - 2) Provide a copy of the patient's partially amended health records.
 3. The Department shall have an additional 30 days to review and respond, for a maximum of 60 days, to amendment requests.
- (B) If the request is approved, the author of the document shall:
1. Not redact or delete the original entry.
 2. Enter the amended information into the health record.
 3. Make a notation at the point of original entry that an amendment notice has been made and reference the amended information.
 4. Note in the health record the reason for the amendment or refer to the patient's CDCR 7236.
 5. Document the statement of facts.
 6. Date and time the amendment using the 24-hour clock.
 7. Sign the amendment with full name and title.
 8. Identify the location of any secondary records that substantiate the amendment.
- (C) A request for amendment may be denied if it is determined that the health information or health record that is the subject of the request:
1. Was not created by CCHCS, unless the patient explains that the originator of the health information is no longer available and the unavailability can be verified;
 2. Would not be available for inspection; or
 3. Is accurate and complete.
- (D) Once the response is received by HIM from the author of the document or designated reviewer, HIM staff shall scan the CDCR 7236 and response into the health record.
1. The CDCR 7236 shall be returned to the patient or patient's representative with the response and amended health records, if applicable.
- (E) When a correction is made, reasonable efforts shall be made to provide the amended information to business associates and others who are known to have the patient health information that was amended.
1. HIM staff shall notify the persons entitled to receive the amended information, as identified by the patient or patient's representative on the original amendment request. If the patient or patient's legal representative is unsure who is entitled to receive the amended information, staff shall work with the patient or patient's representative to ensure that all parties are appropriately identified in accordance with the HCDOM, Section 2.3.4, Release of Information.
 2. HIM staff shall identify other persons, including business associates, that are known to have the patient's health information and that may have or may rely on it.
- (F) If the patient requests a disclosure after the amended record is approved, the patient shall execute a new CDCR 7385.
- (3) Statement of Disagreement**
- (A) The patient or patient's representative may file a statement of disagreement, if they do not agree with the denial or partial approval of their request.
1. The statement of disagreement shall be submitted to the institution's HIM.

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(B) If the patient or patient's representative does not submit a statement of disagreement, they may request that the CDCR 7236 and the denial is provided with any future disclosures.

(C) The patient or patient's representative may file a complaint with the Secretary of the U.S. Department of HHS.

(4) Rebuttals to the Statement of Disagreement

(A) CCHCS shall prepare a written rebuttal to the patient or patient's representative to the statement of disagreement and is responsible for providing a copy to them.

(B) The person that responds to the statement of disagreement shall not be the author of the original document and must be at a classification not less than that of the institutional clinical leadership of the designated discipline.

(5) Inclusion in Health Record

(A) All documentation related to the CDCR 7236 shall be appended (or otherwise linked) to the health information that is the subject of the disputed amendment and shall be retained for ten years in accordance with the HCDOM, Section 2.3.11, Retention and Destruction.

1. This includes all correspondence and statements of disagreement related to the patient's or patient representative's requests for amendment and relating to denial or acceptance of requests to amend.

2. If the health record has been amended, the amendment shall be appended to the original documentation, as described in Section (c)(2)(B).

(B) All documents shall be accessible and available to appropriate staff within the health record.

(C) All documentation related to the request for addendum including amended records, statement of disagreement, and the written rebuttal shall be retained and distributed with the health record for as long as the records are maintained.

References

- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 164, Subpart E, Section 164.501, Definitions
- Code of Federal Regulations, Title 45, Access of Individuals to Protected Health Information, Section 164.524, Access of Individuals to Protected Health Information
- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 164, Subpart E, Section 164.526, Amendment of Protected Health Record, subsections (a) – (f).
- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 164, Subpart E, Section 164.530, Administrative Requirements, subsection (j)
- California Health and Safety Code, Division 106. Personal Health Care, Part 1. General Administration, Chapter 1. Patient Access to Health Record 123111 (a) and (b)
- California Civil Code, Division 3. Obligations [1427 – 3273], Part 4. Obligations Arising from Particular Transactions [1738 – 3273], Title 1.8. Personal Data [1798 – 1798.78], Chapter 1. Information Practices Act of 1977 [1798 – 1798.78], Article 8. Access to Records and Administrative Remedies [1798.30 – 1798.44], Sections 1798.35 – 1798.37
- California Code of Regulations, Title 15, Division 3, Chapter 2, Subchapter 2, Article 5, sections 3999.225 to 3999.237, Health Care Grievances
- [U.S. Department of Health and Human Services \(HHS\)](#)
- CA SAM Section 5310.4, Individual Access to Personal Information
- Health Care Department Operations Manual, Chapter 2, Article 3, Section 2.3.11, Retention and Destruction
- Health Care Department Operations Manual, Chapter 2, Article 3, Section 2.3.4, Release of Information
- Statewide Health Information Policy Manual, 5.2.1, Patient's (Individual's) Right to Amend Medical Records

Revision History

Effective: 05/05/23